

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**TYCO FIRE PRODUCTS LP d/b/a
TYCO FIRE SUPPRESSION &
BUILDING PRODUCTS**

Plaintiff,

v.

VICTAULIC COMPANY

Defendant.

CIVIL ACTION

No.: 10-cv-4645 (ER)

JURY TRIAL DEMANDED

**PLAINTIFF'S MOTION FOR LEAVE TO FILE A REPLY MEMORANDUM OF LAW
ON TYCO'S MOTION TO DISMISS DEFENDANT'S NON-INFRINGEMENT AND
INVALIDITY COUNTERCLAIMS AND TO STRIKE DEFENDANT'S DEFENSES**

Plaintiff Tyco Fire Products LP d/b/a Tyco Fire Suppression and Building Products ("Tyco") respectfully moves this Court for leave to file a reply memorandum to Victaulic Company's ("Victaulic") opposition to Tyco's motion to dismiss and to strike. The motion should be granted for the following reasons:

1. On November 22, 2011, Tyco filed a motion to dismiss defendant's non-infringement and invalidity counterclaims and to strike defendant's defenses, and a supporting memorandum of law. (Docket Index No. 64.)
2. On December 6, 2011, Victaulic filed its opposition to Tyco's motion to dismiss and to strike. (Docket Index No. 70.)
3. Victaulic's opposition raises for the first time a number of issues that Tyco could not have anticipated in its opening memorandum that Tyco wishes to rebut.
4. Pursuant to Section II.C.2 ("Reply and Surreply Briefs") of Your Honor's Outline of Pretrial and Trial Procedures, a reply brief may be filed if "necessary to rebut an issue or point of law not discussed in the initial briefs."

5. As such, Tyco respectfully requests the Court grant its motion for leave to file a reply memorandum to Victaulic's opposition to Tyco's motion to dismiss and to strike. The proposed reply memorandum attached hereto as Exhibit 1.

Dated: December 15, 2011

/s/ John V. Gorman
Eric Kraeutler (Pa. I.D. No. 32189)
John V. Gorman (Pa. I.D. No. 80631)
Andrew C. Whitney (Pa. I.D. No. 201534)
Squire J. Servance (Pa. I.D. No. 207623)
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
215.963.5000

David M. Morris (admitted *pro hac vice*)
MORGAN, LEWIS & BOCKIUS LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004
202.739.3000

Attorneys for Plaintiff
Tyco Fire Products LP d/b/a
Tyco Fire Suppression & Building Products

CERTIFICATE OF SERVICE

I, John V. Gorman, hereby certify that on this 15th day of December, 2011, a true and correct copy of the foregoing was served on the following counsel in the following manner:

VIA HAND DELIVERY

Robert R. Baron, Jr., Esquire
BALLARD SPAHR, LLP
1735 Market Street
51st Floor
Philadelphia, PA 19103

VIA OVERNIGHT COURIER

Darle M. Short, Esquire
OLIFF & BERRIDGE
277 S. Washington St., Suite 500
Alexandria, VA 22314

*Attorneys for Defendant
Victaulic Company*

/s/ John V. Gorman
John V. Gorman